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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/581,847	05/11/2007	Marc Nettlemann	AG015	4615

7590
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09/14/2010

EXAMINER

HOLLOWAY, JASON R

ART UNIT	PAPER NUMBER
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3633

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/581,847	Applicant(s) NETTLEMANN ET AL.	
	Examiner JASON HOLLOWAY	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5 June 2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because in line 11 it appears "sensore" should be --sensor--. Correction is required.
2. The disclosure is objected to because of the following informalities:

On page 1 line 16 of the disclosure, "break" should be --brake--.

On page 3 line 9 and page 7 line 9, the recitation "oblique 4 position" is confusing, it appears to be a typo.

On page 4 line 4, "apples" should be --applies--.

Appropriate correction is required.

Claim Objections

3. Claims 14, 15, 17, 21 and 23 are objected to because of the following informalities:

In claim 14 line 4, the recitation "...if at least one of the two conditions applies..." lacks proper antecedent basis in the claim. This deficiency can be corrected by changing the deficient phrase to --...if at least one of two conditions applies..."

In claim 14 line 8, it appears "apples" should be --applies--.

In claim 15 line 1, it appears "the determination whether" should be --the determination of whether--.

In claim 17, the recitation "... when an associated air spring is vented..." lacks proper antecedent basis since it assumes the venting means is previously presented in the claims, which is not the case.

In claim 17, the recitation "...the bottom of **the vehicle** and at least one member of **the group** consisting of an underlying surface, the wheel axle associated with the vehicle wheel, and the vehicle wheel itself..." all lack proper antecedent basis in the claim.

In claims 21 and 23, "the ride level compensation device" and "the drive engine" each lack proper antecedent basis in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 14-16, 20 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Salib et al. (6,961,648).

Regarding claim 14, Salib teaches a method for controlling the functions of an electronic driving stability program for a motor vehicle with air springs and an air spring control device, comprising the steps of

determining through the air spring control device (see column 5 lines 63-67 for teaching of a pressure transducer in an air spring device) if at least one of the two conditions applies: the vehicle is driven on a wedge of roadway material (the examiner

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contends the banked roadway illustrated in figures 2 and 3 constitutes a wedge of roadway material since it is formed of an inclined plane shape); the vehicle is in a lifted platform situation (figures 2 and 3 also illustrate the platform of the vehicle in a lifted condition);

generating a deactivation signal if it is determined that at least one of the two conditions applies, and deactivating the driving stability program in response to the deactivation signal (see column 12 lines 27-35 which teaches deactivation of the driving stability program to inhibit false activations depending on the vehicle roll condition).

Regarding claim 15, Salib teaches the determination whether at least one of the two conditions applies is carried out by means of pressure sensors in the air springs (as noted above in the rejection to claim 14, see column 5 lines 63-67).

Regarding claim 16, Salib teaches the determination whether the vehicle is driven on a wedge of roadway material is carried out by detecting a disruptive contact between the vehicle and the roadway material (the disruption occurs in figures 2 and 3 wherein the vehicle wheels lose contact with the banked roadway material).

Regarding claim 20, Salib teaches the determination of a lifting platform situation is carried out in connection with a ride level control method (see column 11 lines 39-51 which teaches a ride level control method) which is suitable for detecting a situation in which the motor vehicle is raised on a lifting platform (since the prior art is capable of performing the task of determining if the vehicle is raised on a lifting platform, the intended use limitation is met).

Regarding claim 23, Salib teaches after disruptive contact with a wedge of roadway material has been detected, an adjustment of the ride level compensation device is permitted if the drive engine of the vehicle is switched on (the scenario described in the rejection to claim 20 above takes place while the vehicle is on).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salib et al. (6,961,648).

Regarding claim 17, Salib teaches the determination whether at least one of the two conditions applies is carried out by means of distance sensors (see column 5 lines 48-58) and wherein a deactivation signal is generated for a given wheel when an associated air spring has a position change and the distance between the bottom of the vehicle and at least one member of the group consisting of an underlying surface, the wheel axle associated with the vehicle wheel, and the vehicle wheel itself, exceeds a predefined set point value (see column 5 lines 48-58 which teaches a sensor that determines the distance between the bottom of the vehicle and the road surface. As discussed above, the system has the ability to deactivate the stability control program after taking into account the road conditions, see again column 12 lines 27-35).

However, Salib fails to explicitly disclose the deactivation signal is generated when an associated air spring is vented. The examiner contends it would have been obvious to one of ordinary skill in the art that the deactivation signal can be generated in one of the scenarios illustrated in figures 2 and 3 since as noted above the invention of Salib uses air springs, and the stability control program can be activated by sensors located in the springs which detect travel, thus when the springs are vented, the sensor would send the appropriate signal to either activate or deactivate the system.

Regarding claim 18, Salib teaches at least one of the conditions is determined if the predefined set point value is exceeded for longer than a predefined time period (see column 8 line 57 to column 9 line 9 under the heading "Sensitization" which describes the system as being activated or deactivated under certain time differentials).

Regarding claim 19, Salib teaches the additional step of activating the driving stability program automatically if it is determined that the vehicle is no longer in contact with the wedge of roadway material (see column 10 lines 48-62 and figure 9 which shows the program being activated after deactivation depending on whether the wheels are on the ground or have come off the ground).

However, Salib fails to explicitly disclose reactivating the stability program automatically after a deactivation. The examiner contends it would have been obvious to one of ordinary skill in the art to reactivate the stability control program if the driving conditions called for such a reactivation in order to ensure the safety of the passengers. Reactivating the stability program would automatically be carried out by the stability control sensors and the engine computer.

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8. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salib et al. (6,961,648) in view of van Cayzeele et al. (7,063,333) and further in view of Dixon et al. (6,260,859).

Regarding claim 21, Salib teaches a lifting platform situation is detected (as noted above in the rejection to claim 14).

However, Salib fails to explicitly disclose filling the air springs with compressed air to an initial level. Cayzeele teaches a vehicle ride height adjustment method wherein air springs are filled to an initial level with compressed air (see column 3 lines 18-30). Therefore, from the teaching of Cayzeele, it would have been obvious to one of ordinary skill in the art at the time the invention was made to fill the air springs of Salib to an initial during a vehicle lifting event in order to have the appropriate amount of air in the springs with respect to the roadway conditions.

However, the combination of Salib and Cayzeele fails to explicitly disclose prohibiting any adjustment of the ride level compensation device if the drive engine of the vehicle is switched off. Dixon teaches a ride level compensation device which cannot be adjusted when a vehicle is powered down (see column 4 lines 7-17). Therefore, from the teaching of Dixon, it would have been obvious to one of ordinary skill in the art at the time the invention was made to not allow the ride level to be adjusted when the vehicle is turned off in order to preserve the battery since running a compressor on battery power alone would quickly diminish the battery life.

Regarding claim 22, the combination of Salib, Cayzeele and Dixon teaches an adjustment of the ride level compensation device, which causes the distance from the

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bottom of the vehicle to the underlying surface to become larger, is permitted (all three prior art references noted above teach adjusting the ride level of the vehicle just as claimed).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached 892 form.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON HOLLOWAY whose telephone number is (571) 270-5786. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JASON HOLLOWAY

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Examiner
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/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664